

ARTICLE VI

ADMINISTRATION

Section 6-1 Enforcement

This Ordinance shall be enforced by the Board of Selectmen and the Board of Selectmen is hereby given power and authority to enforce the provisions of this Ordinance. The Board of Selectmen is further empowered to confer upon an administrative official appointed by the Board of Selectmen, the duty of administering the provisions of this Ordinance. Upon any well founded information that this Ordinance is being violated, the Selectmen shall seek an injunction in Superior Court or shall take such other legal action as they deem appropriate. 3-12-63

Section 6-2 Building Permits, Certificates of Occupancy, Earth Removal Permits

A. Building Permits

1. No building or structure shall hereafter be erected or structurally altered until a building permit shall be issued by the Selectmen or their authorized agents, the Building Inspector or Zoning Administrator, stating that the building or structure, and use of land comply with the regulations of this Ordinance and all building and health laws and Ordinances. 3-14-78

2. No permits shall be issued to any lot upon which there is outstanding a recorded violation of the rules, regulations or Ordinances of the Town of Amherst, excepting any permit required to correct such violation.

3. A foundation plot plan shall be required prior to backfill of the foundation. Foundations shall include: poured concrete walls, concrete block or stone walls, poured concrete monolithic slabs, and pole barn piers or similar type permanent supports. This shall not apply to structures that are set on semi-permanent bases – such as concrete or stone pier blocks or pressure treated wood blocks. This foundation plan shall be done by a Licensed Land Surveyor and shall certify that the foundation meets all the setback regulations in the zone in which it is located. (3.9.99) (3.8.05)

B. Certificate of Occupancy

1. No building or structure hereafter erected or structurally altered shall be occupied or used until a certificate has been issued by the Selectmen, or their

authorized agents, the Building Inspector or Zoning Administrator. The certificate shall be issued only after the Building Inspector or Zoning Administrator makes a finding that the building or structure has been constructed, arranged, or structurally altered or is to be used in conformance with the provisions of this Ordinance and all other health, safety and building laws, including but not limited to a requirement that the site be serviced by all necessary utilities including municipal water (or that water certified as satisfactory is available if municipal water is not provided) and that construction be in accordance with all representations made as part of the application for and granting of the building permit. 3-14-78

2. Certificates of Occupancy for new structures shall not be issued unless two (2) copies of a plot plan (survey) are filed with the Building Official, prepared by a Licensed Land Surveyor certifying the following information:

- a. Boundary markers are found or set at least at the four principle corners of the lot, or at least three points or angles for lots so configured. Metal pins are acceptable in bituminous concrete paving. If the lot is greater than ten (10) acres and no portion of the perimeter property line is closer than five (5) times the minimum zoning setback distance from the building/s on it, then the requirements to set markers noted above is waived, however all other provisions of this Ordinance shall be required.
- b. Location to scale on the lot of the building/s, well/s, septic system/s, driveway/s. The plot plan shall include dimensions, taken from two main corners of the structure, or other permanent location points, to the cleanout on the septic tank, to the distribution box, and to the two (2) closest corners of the leach field, 3-12-85
- c. A statement that the building/s conform to the setbacks of the District where located. 3-11-93

Scale of the plot plan to be 1"=100' if the entire lot will not fit on 17" x 22" paper. Boundary markers shall be of granite, concrete or drill holes in granite or durable ledge. Offset markers may be used where natural or historical obstruction occurs. 3-9-82

C. Uses and Certificate of Occupancy

No change shall be made in the use of a building or part thereof now or hereafter erected or structurally altered, or in the use of land now or hereafter occupied, nor shall any use of a building or land be undertaken, without a Certificate of Occupancy having first been issued by the Selectmen, or their authorized agents, the Building Inspector or Zoning Administrator. No such certificate shall be issued to make such change or undertake such use unless it is in conformity with the provisions of this Ordinance or amendments thereto hereafter duly enacted. 3-14-78

D. Earth Material Removal

No earth material as defined in Section 3-8 hereof shall be removed unless a permit has been applied for and obtained in a fashion consistent with the provisions of Section 3-8 hereof. 3-14-78

E. The Board of Selectmen,

or the Administrative Official, may require of any applicant for a permit such sketches, drawings, plot plans or other material as are deemed necessary to make a decision as to compliance with the provisions of this Ordinance. They may require plans, details, specifications for new structures to have been prepared, or sealed, by a licensed architect or engineer. (3-12-63) 3-13-84

F. If an applicants

requests a permit to undertake an activity on a lot not conforming in size and frontage as otherwise required by this Ordinance and is making application under Article IV, Section 4-2 of this Ordinance, such applicant shall file as part of his application, the date of the recording and the Registry of Deeds reference number of the recording of the non-conforming lot. 3-12-63

G. The Administrative Official

shall be a salaried employee of the Town and shall be paid a salary as determined by the Selectmen and approved by the Town as part of the annual budget. 3-6-73

H. All permits issued under

the provision of this Ordinance shall expire and become invalid two years from the date of issuance of the permit. 3-14-78

Effective this date, all residential site plans approved by the Planning Board shall expire four (4) years from the date of Planning Board approval. This expiration date shall not apply to plats that are exempt or vested because of the operation of RSA 674:39. 3-14-89

I.

1. Upon receipt of the application for a permit with sufficient information to clearly establish the nature and extent of the proposed activity the Administrative Official shall determine whether the proposed activity or use constitutes a permitted use within the provisions of this Ordinance or whether a special exception or a variance is required. 3-14-78

2. If the proposed use requires a special exception or a variance, the Administrative Official shall refer the application for permit to the Board of Adjustment for action. 3-14-78

3. If the proposed use or activity is within the provisions of this Ordinance, the Administrative Official shall post a notice in two public places in the Town of Amherst, one of which shall be at the Town Hall and no permit shall be issued until said notice has been posted for a period of seven (7) days. If during that period the Administrative Official received objection to the issuance of the requested permit, he may issue the permit, refer the application to the Board of Adjustment for action, or deny the permit. 3-14-78

J. Consistent with State Statues,

Public utility structures proposed for the Town of Amherst shall obtain building permits and meet zoning requirements. 3-13-84

Section 6-3 Board of Adjustment

A. Establishment

In accordance with the provisions of the New Hampshire Revised Statutes Annotated 1955, Chapter 673 as amended and as hereinafter provided, a Board of Adjustment is established. 3-12-63

B. Organization

1. The Board of Adjustment shall consist of five members who shall not hold any other elective office or position under the municipality. 3-12-63

2. The members of the Board of Adjustment shall be elected at the annual Town Meeting. 3-5-74, 3-12-96

3. DELETED (3-10-98)

4. Vacancies in the Board, occurring other than through the expiration of a term, shall be filled in accordance with RSA 673:12.

5. DELETED (3.8.05)

6. Members of the Board of Adjustment shall serve without compensation. 3-12-63

C. Powers

The Board of Adjustment shall perform all the duties and have all the powers provided by the New Hampshire Revised Statutes Annotated 1955 as Amended and as hereinafter provided. 3-12-63

D. Meetings

Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. All meetings shall be open to the public. 3-12-63

The Board shall keep a record of proceedings showing the vote upon every question. 3-12-63

Every rule or regulation, and every order, requirement, decision or determination of the Board of Adjustment shall immediately be filed in the office of the Board of Adjustment and shall become a public record. 3-12-63

The concurring vote of three members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision or determination of the administrative office, or to decide in favor of the appellant, or to decide any matter upon which it is required to pass, or to effect any variance from the strict application of provisions of this Ordinance. 3-12-63

All applications shall be acted upon within ninety days after the date of filing the application or within 90 days of the date of filing of any additional information requested by the Board but no later than 6 months after the date of filing; provided, however, when additional information is not furnished within a reasonable time, the Board may, on notice to the applicant, deny the application without prejudice to the right to refile. When an application is denied on the merits, the application may not be refiled for a period of one year after the date of denial. 3-6-73

E. Procedure on Permits for Special Exceptions, Variances and Appeals of Administrative Decisions

1. The Board of Adjustment shall not authorize the issuance of a permit until after a hearing on the application is held.
2. Upon receipt from the Administrative Official of an application for a special exception, variance, or appeal of an administrative decision, the Board of Adjustment shall hold a public hearing. 3-12-91

Notice thereof shall be given as follows:

- a) The applicant and all of the abutters shall be notified of the hearing by certified mail, return receipt requested, stating the time and place of the

- hearing, and such notice shall be mailed not less than five days
before the date fixed for the hearing of the appeal.
- b) A public notice of the hearing shall be published in a newspaper of
the general circulation in the area, not less than five (5) days before
the date fixed for the hearing of the appeal.
- c) The public hearing shall be held within thirty (30) days of the receipt of
the notice of the appeal.
- d) Any party may appear in person or by his agent or attorney at the
hearing of an appeal.
- e) The cost of advertising and costs of mailing the notices of hearing shall
be payable by the person making the appeal prior to the hearing.

3-9-82

F. Conditions for the Granting of a Variance 3-10-64

1. Every variance granted by the Board of Adjustment shall be based upon and
produced at accompanied by a specific finding or findings, supported by evidence
the hearing that:
- a) There are several circumstances or conditions, fully described in the
findings applying to the land or buildings that do not apply
generally to land or buildings in the neighborhood. 3-12-63
- b) Said circumstances or conditions are such that the strict application of
the provisions of the Ordinance would deprive the applicant of the
reasonable use of the land or building and would result in
unnecessary hardship. 3-12-63
- c) For reasons set forth in the findings granting of the variance would be
of benefit to the public interest, would promote the reasonable use
of the land or building and that the variance granted by the Board of
Adjustment is the minimum variance that will accomplish this purpose.
3-12-63

G. Time Limits of Special Exceptions and Variances

If, after a permit has been authorized by the Board of Adjustment as a result of a
request for a Special Exception or Variance, such permit has not been obtained within
one year from the date of such authorization, then such authorization shall become null
and void, and no permit shall be issued thereunder. (3-4-75) 3-9-82

H. Appeal from Order of the Board of Adjustment

Within thirty (30) days after any order or decision handed down by the Board of Adjustment, any party to the action or proceedings of the Board of Adjustment, or any person directly affected thereby, may move for a re-hearing and thereafter, if necessary, appeal by petition to the Superior Court in accordance with the provisions of the laws of the State of New Hampshire and may pursue such remedies as are therein provided for said party. 3-12-63 (3.8.05)

I. Rules of Procedure

The Board of Adjustment shall adopt and promulgate rules of procedure for the guidance of all persons having business before the Board of Adjustment. Said rules shall not be inconsistent with the provisions of the Statutes of the State of New Hampshire nor with the provisions of this Ordinance. 3-12-63

J. Authorize Temporary Uses (deleted 3-12-91)

Section 6-4 Costs

Any person appearing before the Zoning Board of Adjustment may be represented by counsel, but the costs of retaining such counsel shall be borne by the party retaining them, and not by the Town of Amherst. 3-12-63

Section 6-5 Existing Ordinances

All existing ordinances or parts thereof inconsistent with the provisions of this ordinance are repealed upon passage of this ordinance. 3-12-63

Section 6-6 Severability Clause

If any section, subsection, sentence, clause, phrase or other part of this ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. 3-12-63

Section 6-7 Governmental Services

No provision of this Ordinance shall be interpreted as to prevent the Town of Amherst from providing for or performing any existing or necessary governmental, education, or protective services. 3-12-63

Section 6-8 Penalty

In accordance with RSA 676:17, as amended, any person, firm, or corporation violating the provisions of this Ordinance is punishable by a civil fine of up to \$100 (One hundred dollars) per day, for every day after the conviction date that the violation continues, or after the date on which the violator received written notice from the municipality that is in violation, whichever date is earlier. 3-11-86